

NOTICE OF AVAILABILITY, NOTICE OF PREPARATION (NOP), AND NOP COMMENT LETTERS



**NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE
PROPOSED MALIBU LAGOON RESTORATION AND ENHANCEMENT PLAN**

ORIGINAL FILED

Date: January 20, 2006

JAN 20 2006

To: All Interested Parties

The California Department of Parks and Recreation (DPR) has prepared an Environmental Impact Report (EIR) for the proposed project, in compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines. DPR is the lead agency for the proposed project under CEQA.

PROJECT LOCATION: Malibu Lagoon is a 31-acre shallow water embayment located within Malibu Lagoon State Beach at the terminus of the Malibu Creek Watershed, the second largest watershed draining into Santa Monica Bay. Malibu Lagoon empties into the Pacific Ocean at Malibu Surfrider Beach and is generally located south of the intersection of Pacific Coast Highway and Cross Creek Road in the City of Malibu. The project site is not located on any lists of hazardous sites enumerated under Section 65962.5 of the Government Code.

DESCRIPTION OF THE PROPOSED PROJECT: The Malibu Lagoon Restoration and Enhancement Plan (Plan) presents a comprehensive and adaptive management approach to restore and enhance the ecological structure and function of Malibu Lagoon, improve lagoon and coastal water quality, and enhance visitors' experience through improvements to access and interpretive displays. The Plan includes a water management component, a habitat and access plan, and a comprehensive long-term monitoring plan to ensure restoration goals are being achieved. The Plan was selected out of a range of alternatives for its ability to achieve restoration goals while minimizing short-term impacts to the existing system.

The restoration goals for the lagoon consist of: increased tidal flushing; improved water circulation; improved coastal water quality; increased holding capacity; reduced predator encroachment; restoration of typical salt marsh hydrology; increased wildlife habitat; creation of a nesting island for least terns and western snowy plovers; creation of channel connections to the lagoon; and integration of public access with habitat protection.

Major physical components of the Plan consist of: a relocated parking lot and staging area; implementation of Best Management Practices to minimize impacts of storm water runoff; slope improvements to the western edge of the lagoon; improvements to the existing boat house channel; and the creation of a new channel along the southern edge of the west lagoon.

LIKELY ENVIRONMENTAL EFFECTS: The proposed project is anticipated to result in impacts to biological resources, cultural resources, hydrology and water quality, and construction noise. Of these, only construction noise is estimated to remain significant after implementation of mitigation measures prescribed in the Draft EIR.

PUBLIC REVIEW PERIOD: The Draft EIR is being circulated for public review and comment for a period of 45 days, beginning January 20, 2006. Written comments on the Draft EIR should be mailed/faxed or e-mailed (with a contact name and mailing address) to Suzanne Goode at 1925 Las Virgenes Road, Calabasas, California, 91302. Fax: (818) 880-6165. E-mail: sgood@parks.ca.gov E-mails must include the project name, **Malibu Lagoon Restoration**, in the subject line and include contact information. Your views and comments on the Draft EIR are welcomed and encouraged. Written comments must be received no later than March 06, 2006.

Copies of the Draft EIR are available for review at the following locations during normal business hours:

California Department of Parks & Recreation
Angeles District Headquarters
1925 Las Virgenes Road
Calabasas, CA 91302

Malibu Library
23519 Civic Center Way
Malibu, CA 90265

Malibu City Hall
23555 Civic Center Way
Malibu, CA 90265

State of California – The Resources Agency
DEPARTMENT OF PARKS AND RECREATION



NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT

Malibu Lagoon State Beach

PROJECT: Malibu Lagoon Restoration and Enhancement Plan

The California Department of Parks and Recreation is the Lead Agency under the requirements of the California Environmental Quality Act (CEQA) and is considering the preparation of an Environmental Impact Report (EIR) for the project identified above. We would like to know your views as to the scope and content of the EIR.

PROJECT LOCATION

Malibu Lagoon is a 31-acre shallow water embayment located within Malibu Lagoon State Beach at the terminus of the Malibu Creek Watershed, the second largest watershed draining into Santa Monica Bay. The project is generally located at Pacific Coast Highway and Cross Creek Road in the city of Malibu.

BACKGROUND

Urban encroachment has significantly altered the physical configuration of Malibu Lagoon, which now occupies a much smaller portion of its historic area. A significant portion of the once low-lying tidally-influenced areas near the mouth of Malibu Creek were filled in the 1940s and 1950s, and by the late 1970s, this area was completely filled and developed with two baseball fields. Urbanization upstream in the Malibu Creek Watershed has increased the volume of water transported into the lagoon, and urban pollution has significantly diminished the quality of transported water through inputs of nutrients, sediments, and pollutants. Despite restoration efforts over the last two decades, the ecosystem of Malibu Lagoon remains degraded. Recent studies identified impacts to the ecological health and water quality in the lower creek and lagoon ecosystems.

PROJECT DESCRIPTION

The Malibu Lagoon Restoration and Enhancement Plan (Plan) presents a comprehensive and adaptive management approach to restore and enhance the ecological structure and function of Malibu Lagoon, as well as to enhance visitors' experience through improvements to access and interpretation. The objective of the Plan is to restore the biological and physical functions of the lagoon to improve lagoon and coastal water quality, including management of water, habitat and access, while minimizing impacts to the existing system. The restoration goals for the lagoon consist of increased tidal flushing, improved water circulation, improved coastal water quality, increased holding capacity, reduced predator encroachment, restoration of typical salt marsh hydrology, increased wildlife habitat, creation of a nesting island for least terns and western snowy plovers, creation of channel connections to the lagoon, and integration of public access with habitat protection. Major components of the Plan consist of a relocated parking lot and

staging area, implementation of Best Management Practices to minimize impacts of storm water runoff, slope improvements to the western edge of the lagoon, improvements to the existing boat house channel and the creation of a new channel along the southern edge of the west lagoon. A comprehensive monitoring plan will be implemented throughout the project to ensure that Plan objectives are met and adverse impacts are avoided.

POTENTIAL ENVIRONMENTAL EFFECTS

Potential environmental effects are anticipated in the following categories: Biological Resources, Cultural Resources, Hydrology and Water Quality, and Construction Effects. An Initial Study was not prepared for this project, as preliminary review of the project scope indicated the necessity to prepare an EIR. Therefore, all other topics included in the CEQA Initial Study Checklist will be analyzed in the Draft EIR.

HOW TO COMMENT

Due to time limits mandated by state law, response to this NOP must be received within 30 days of publication of this notice. The public comment period begins October 28, 2005 and extends through November 30, 2005. Please send written responses to:

Suzanne Goode

California Department of Recreation and Parks
1925 Las Virgenes Road
Calabasas, California, 91302

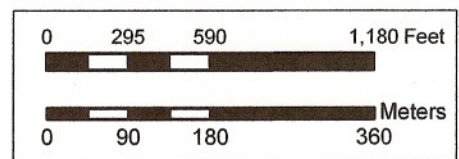
A public scoping meeting will be held on November 16, 2005 from 6 p.m. to 8 p.m. at Malibu City Hall located at 23815 Stuart Ranch Road, Malibu California.

The Draft EIR is scheduled for availability in December 2005. When completed, a notice will be published to alert the public of the availability of the Draft EIR and indicate where copies are available for review and how to comment.

**Regional Location Map
Malibu Lagoon Restoration Program
Environmental Impact Report (EIR)
Notice of Preparation**



Sources: Copyright 2003 GDT, Inc. and its licensors, Rel. 10/2003; U.S. Census Bureau TIGER Data, 2000; Jones & Stokes, 2005.





NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT

PROJECT: Malibu Lagoon Restoration and Enhancement Plan

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Suzanne Goode
California Department of Recreation and Parks
1925 Las Virgenes Road
Calabasas, California, 91302

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The Draft EIR is scheduled for availability in December 2005. When completed, a notice will be published to alert the public of the availability of the Draft EIR and indicate where copies are available for review and how to comment. Published in The Malibu Times 10-27-05

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT



PROJECT: Malibu Lagoon Restoration and Enhancement Plan

The California Department of Parks and Recreation is the Lead Agency under the requirements of the California Environmental Quality Act (CEQA) and is considering the preparation of an Environmental Impact Report (EIR) for the project identified above. We would like to know your views as to the scope and content of the EIR.

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Suzanne Goode

California Department of Recreation and Parks
1925 Las Virgenes Road
Calabasas, California, 91302

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The Draft EIR is scheduled for availability in December 2005. When completed, a notice will be published to alert the public of the availability of the Draft EIR and indicate where copies are available for review and how to comment.

Publish Date: October 27, 2005

State of California - The Resources Agency

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF FISH AND GAME**<http://www.dfg.ca.gov>

South Coast Region

4949 Viewridge Avenue

San Diego, CA 92123

(858) 467-4201

**RECEIVED ON**

NOV 15 2005

November 7, 2005

*California State Parks
Angeles District*

Ms. Suzanne Goode
Californial Department of Recreation and Parks
1925 Las Virgenes Road
Calabasas, California 91302

**Notice of Preparation of a Draft Environmental Impact Report for
Malibu Lagoon Restoration and Enhancement Plan
SCH# 20051011123, Los Angeles County**

Dear Ms. Goode:

The Department of Fish and Game (Department) has reviewed the above-referenced Notice of Preparation (NOP), relative to impacts to biological resources. The proposed project consists of the restoration and enhancement of the ecological structure and function of Malibu Lagoon located at the terminus of the Malibu Creek Watershed in the City of Malibu.

To enable Department staff to adequately review and comment on the proposed project we recommend the following information, where applicable, be included in the Draft Environmental Impact Report:

1. A complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats.
 - a. A thorough recent assessment of rare plants and rare natural communities, following the Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities.
 - b. A complete, recent assessment of sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and U.S. Fish and Wildlife Service.
 - c. Rare, threatened, and endangered species to be addressed should include all those which meet the California Environmental Quality Act (CEQA) definition (see CEQA Guidelines, Section 15380).

Suzanne Goode
November 7, 2005
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- d. The Department's Wildlife Habitat Data Analysis Branch in Sacramento should be contacted at (916) 322-2493 to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Also, any Significant Ecological Areas (SEAs) or Environmentally Sensitive Habitats (ESHs) or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area must be addressed.
2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. This discussion should focus on maximizing avoidance, and minimizing impacts.
 - a. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
 - b. Project impacts should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, adjacent natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas, should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic and outdoor artificial lighting.
 - c. A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
 - d. Impacts to migratory wildlife affected by the project should be fully evaluated including proposals to removal/disturb native and ornamental landscaping and other nesting habitat for native birds. Impact evaluation may also include such elements as migratory butterfly roost sites and neo-tropical bird and waterfowl stop-over and staging sites. All migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory nongame birds as listed under the MBTA.
 - e. Impacts to all habitats from City or County required Fuel Modification Zones (FMZ). Areas slated as mitigation for loss of habitat shall not occur within the FMZ.
 - f. Proposed project activities (including disturbances to vegetation) should take place outside of the breeding bird season (February 1- September 1) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). If project activities cannot avoid the breeding bird season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department recommends a minimum 500-foot buffer for all active raptor nests).
3. A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or

Suzanne Goode
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otherwise minimize impacts to sensitive biological resources including wetlands/riparian habitats, alluvial scrub, coastal sage scrub, Joshua tree woodlands, etc. should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.

- a. Mitigation measures for project impacts to sensitive plants, animals, and habitats should emphasize evaluation and selection of alternatives which avoid or otherwise minimize project impacts. Compensation for unavoidable impacts through acquisition and protection of high quality habitat elsewhere should be addressed with offsite mitigation locations clearly identified.
 - b. The Department considers Rare Natural Communities as threatened habitats having both regional and local significance. Thus, these communities should be fully avoided and otherwise protected from project-related impacts.
 - c. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful.
4. A California Endangered Species Act (CESA) Permit must be obtained, if the project has the potential to result in "take" of species of plants or animals listed under CESA, either during construction or over the life of the project. CESA Permits are issued to conserve, protect, enhance, and restore State-listed threatened or endangered species and their habitats. Early consultation is encouraged, as significant modification to the proposed project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, require that the Department issue a separate CEQA document for the issuance of a CESA permit unless the project CEQA document addresses all project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA permit. For these reasons, the following information is requested:
 - a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.
 - b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.
5. The Department opposes the elimination of watercourses (including concrete channels) and/or the canalization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. **The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of a drainage.**
 - a. The Department requires a Streambed Alteration Agreement (SAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant prior to any direct or indirect impact to a lake or stream bed, bank or channel or associated riparian resources. The Department's issuance of a SAA may be a project that is subject to CEQA. To facilitate our issuance of the Agreement when CEQA applies, the

Suzanne Goode
November 7, 2005
Page 4

Department as a responsible agency under CEQA may consider the local jurisdiction's (lead agency) document for the project. To minimize additional requirements by the Department under CEQA the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

Thank you for this opportunity to provide comment. Please contact Mr. Scott Harris, Wildlife Biologist, at (626) 797-3170 if you should have any questions and for further coordination on the proposed project.

Sincerely,



Morgan Wehtje
Environmental Scientist IV

cc: Ms. Morgan Wehtje, Camarillo
Mr. Scott Harris, Pasadena
Mr. Ronnie Glick, Thousand Oaks
Mr. Maurice Cardenas, Ojai
HCP-Chron
Department of Fish and Game

State Clearinghouse, Sacramento

SPH:sph

Malibu Lagoon Restoration Plan 2005

RECEIVED ON

November 15, 2005

NOV 16 2005

Ms. Suzanne Goode
 Department of Parks and Recreation
 1925 Las Virgenes Road
 Calabasas, CA 91302

*California State Parks
 Angeles District*



Main Office

818 West Seventh Street
 12th Floor
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 90017-3435

(213) 236-1800

(213) 236-1825

www.scag.ca.gov

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 San Gabriel • Paul Bowlen, Cerritos • Todd
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 • Stan Cerni, La Habra Heights • Margaret Clark,
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 Angeles • Frank Gurnis, Cudahy • Janice Hahn,
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 • Richard Chavez, Anaheim • Debbie Cook,
 Huntington Beach • Cathryn DeYoung, Laguna
 Niguel • Richard Dixon, Lake Forest • Marilyn
 Poe, Los Alamitos • Ted Ridgeway, Newport
 Beach

Riverside County: Jeff Stone, Riverside County •
 Thomas Buckley, Lake Elsinore • Angie
 Hixinger, Moreno Valley • Ron Lovelidge,
 Riverside • Greg Potts, Cathedral City • Ron
 Roberts, Temecula

San Bernardino County: Gary Oviatt, San
 Bernardino County • Lawrence Dale, Barstow •
 Paul Eaton, Montclair • Lee Ann Garcia, Grand
 Terrace • Tim Jasper, Town of Apple Valley • Lucy
 McCallum, Highland • Deborah Robertson, Redlands
 • Alan Wagner, Ontario

Ventura County: Judy Mikels, Ventura County •
 Glen Becerra, Simi Valley • Carl Morehouse, San
 Buenaventura • Toni Young, Port Hueneme

Orange County Transportation Authority: Lou
 Correa, County of Orange

Riverside County Transportation Commission:
 Robin Lowe, Hemet

Ventura County Transportation Commission:
 Keith Millhouse, Moorpark

RE: SCAG Clearinghouse No. I 20050700 Malibu Lagoon Restoration and
 Enhancement Plan

Dear Ms. Goode:

Thank you for submitting the **Malibu Lagoon Restoration and Enhancement Plan** for review and comment. As areawide clearinghouse for regionally significant projects, SCAG reviews the consistency of local plans, projects and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

We have reviewed the **Malibu Lagoon Restoration and Enhancement Plan**, and have determined that the proposed Project is not regionally significant per SCAG Intergovernmental Review (IGR) Criteria and California Environmental Quality Act (CEQA) Guidelines (Section 15206). Therefore, the proposed Project does not warrant comments at this time. Should there be a change in the scope of the proposed Project, we would appreciate the opportunity to review and comment at that time.

A description of the proposed Project was published in SCAG's **October 1-31, 2005** Intergovernmental Review Clearinghouse Report for public review and comment.

The project title and SCAG Clearinghouse number should be used in all correspondence with SCAG concerning this Project. Correspondence should be sent to the attention of the Clearinghouse Coordinator. If you have any questions, please contact me at (213) 236-1851. Thank you.

Sincerely,

BRIAN WALLACE
 Associate Regional Planner
 Intergovernmental Review

Doc #115891



1965 2005

DEPARTMENT OF TRANSPORTATION

DISTRICT 7, REGIONAL PLANNING
IGR/CEQA BRANCH
100 SOUTH MAIN STREET
LOS ANGELES, CA 90012-3606
PHONE (213) 897-3747
FAX (213) 897-1337



*Flex your power!
Be energy efficient!*

November 17, 2005

Ms. Suzanne Goode
California State Department of Parks and Recreation
1925 Las Virgenes Road
Calabasas, CA 91302

Malibu Lagoon Restoration and Enhancement Plan
Notice of Preparation (NOP) of Environmental
Impact Report SCH Number 2005101123
Vicinity LOS/1/46-47 IGR/CEQA # 051112/EK

Dear Ms. Goode:

We have received the CEQA Notice of Preparation, for the project referenced above right. The proposed project is to restore biological and physical functions of the Malibu Lagoon. For the California State Department of Transportation (Caltrans), we have the following comments.

The proposed project is adjacent to the State transportation facilities. Therefore we request that the project not result in any modification of water flow affecting Malibu Creek or Lagoon that would affect stability of the foundations of the SR-1 Pacific Coast Highway or its nearby bridge over the Lagoon. We further ask that any operations on its right-of-way or boundaries not adversely affect the operation of the State Highway. Please note that an Encroachment Permit is needed for any kind of encroachment (or effect) into, on, over or under State right-of-way, permanent or temporary. Should operations or effects on State right-of way be involved, you need to initiate contact with the District Seven Permits Office at the earliest appropriate time, to submit plans so that the Office could determine if a Permit is needed.

Regarding construction, we give this reminder, that transportation of special construction equipment and/or materials, which requires the use of oversized-transport vehicles on State highways would require a Caltrans Transportation Permit. We ask that the applicant avoid excessive or poorly timed truck platooning (caravans of trucks), even on a particular day when many truck trips per day to or from a location might be desirable. Since the project is adjacent to the State Highway, particular care in this regard is needed.

If you have any questions regarding our comments, refer to our internal IGR/CEQA Record Number 051112/EK; and please do not hesitate to contact our review coordinator Edwin Kampmann at (213) 897-1346 or to contact me at (213) 897-3747.

Sincerely,

CHERYL J. POWELL
IGR/CEQA Program Manager

cc: Mr. Scott Morgan, State Clearinghouse

"Caltrans improves mobility across California"



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

REPLY TO
ATTENTION OF:

November 30, 2005

Office of the Chief
Regulatory Branch

RECEIVED ON

DEC 02 2005

*California State Parks
Angeles District*

Suzanne Goode
California Department of Parks and Recreation
1925 Las Virgenes Road
Calabasas, California 91302

Dear Ms. Goode:

This comment letter is in response to the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Malibu Lagoon Restoration and Enhancement Plan (Plan), proposed for Malibu Lagoon in the City of Malibu, Los Angeles County, California. As you know, the Corps assisted in pre-project planning as a member of the technical advisory committee. Based on our review of the NOP and the Plan, it appears that the proposed restoration activities would require a U.S. Army Corps of Engineers permit.

A Corps of Engineers permit is required for:

1. structures or work in or affecting "navigable waters of the United States" pursuant to Section 10 of the River and Harbor Act of 1899. Examples include, but are not limited to,
 - a. constructing a pier, revetment, bulkhead, jetty, aid to navigation, artificial reef or island, and any structures to be placed under or over a navigable water;
 - b. dredging, dredge disposal, filling and excavation;
2. the discharge of dredged or fill material into, including any redeposit of dredged material within, "waters of the United States" and adjacent wetlands pursuant to Section 404 of the Clean Water Act of 1972. Examples include, but are not limited to,
 - a. creating fills for residential or commercial development, placing bank protection, temporary or permanent stockpiling of excavated material, building road crossings, backfilling for utility line crossings and constructing outfall structures, dams, levees, groins, weirs, or other structures;
 - b. mechanized land clearing, grading which involves filling low areas or land leveling, ditching, channelizing and other excavation activities that would have the effect of destroying or degrading waters of the United States;

-2-

- c. allowing runoff or overflow from a contained land or water disposal area to re-enter a water of the United States;
 - d. placing pilings when such placement has or would have the effect of a discharge of fill material; or
3. any combination of the above.

To facilitate Corps review and analysis of the proposed project, the EIR should include a delineation of Corps jurisdiction throughout the entire project site demarcating both wetlands and non-wetland waters of the United States. The EIR should include an alternatives analysis consistent with requirements of the Section 404(b) (1) Guidelines [40 CFR Part 230] as well as an analysis of cumulative impacts within the Malibu Creek Watershed including the potential removal of Rindge Dam. Based on our review of the Plan, the Corps' scope of analysis will include the entire project site. Thus, analysis of potential effects to endangered species, critical habitat, and cultural and historical resources should include the entire project site. The EIR should address temporary, construction-related impacts as well as long-term impacts expected to result from the proposed project through a sequenced approach of avoidance, minimization, and compensation for unavoidable impacts.

Should you have any questions about this letter, please contact me at (805) 585-2146. Please refer to this letter and 200500120-JCM in your reply.

Sincerely,



Jack Malone, Ph.D
Regulatory Branch
Los Angeles District

Bob Stark

From: Marcia Hanscom [wetlandact@earthlink.net]
Sent: Wednesday, November 30, 2005 8:12 AM
To: Suzanne Goode
Cc: Mark Abramson; Marcia Hanscom
Subject: re: NOP comments

Dear Suzanne,

For the current NOP process for the Malibu Lagoon restoration proposal, please include the comments we submitted in writing in response at the public meeting held in Malibu where the final plan for the Malibu Lagoon restoration effort was presented by Moffat & Nichols and Heal the Bay. There are numerous substantive and specific comments in that letter from CLEAN and Wetlands Action Network which address issues that ought to be considered when determining the scope of the Environmental Impact Report (EIR.)

Should you need me to fax you over another copy of this letter, please provide me with your fax number.

Thank you.

Sincerely,
Marcia Hanscom
Executive Director
Wetlands Action Network

protecting & restoring wetlands
along the Pacific Migratory Pathways

&

Managing Director
CLEAN - Coastal Law Enforcement Action Network

322 Culver Blvd., # 317
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(310) 821-9045
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Wetlands Action Network

protecting & restoring wetlands along the Pacific migratory pathways

PO Box 1145 • Malibu, CA 90265 (310) 821-9045

Coastal Law Enforcement Action Network (CLEAN)

enforcing laws protecting the California coast

322 Culver Blvd., Suite 317 • Playa del Rey, CA 90293 (310) 821-9045

June 16, 2005

California State Parks
Ms. Suzanne Goode, Resource Ecologist
California Coastal Conservancy
Mr. Sam Schuchat, Executive Director

re: Malibu Lagoon and restoration plans

Dear State Parks & Coastal Conservancy officials:

Thank you for the opportunity to comment on the process and proposed course of action recommended by contractors to the State of California for Malibu Lagoon.

As you know, our organizations have been vitally involved and interested in the Malibu Lagoon ecosystem for some time. We have one of the most extensive libraries of historical information on the ecology of Malibu Lagoon, and our advising biologist, Robert Roy van de Hoek has been one of the most consistent and persistent observers and analysts of this ecosystem during the past decade.

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PREMATURE SELECTION OF PLAN

The first and foremost problem with the current plans is that a particular course of action (a specific project) has been selected by your contractors without knowing the current state of the ecosystem. This is a classic case of putting the cart before the horse. It appears that grant deadlines and grant workplans may be guiding the process, as opposed to having solid science leading the way.

No protocol surveys of birds, mammals, insects, reptiles or amphibians have been completed. No detailed, protocol surveys for plants has been completed either; only a "general" vegetation map is shown, ignoring the complexity and diversity of plant life and its ecological functions. In addition, inadequate fish surveys have been completed.

The amount of life that the plan would extinguish is not even known. In fact, it is not known which rare, threatened or endangered species in these categories are residing in which areas of the lagoon.

Therefore, it is completely premature to have selected a particular course of action without knowing first what is present and from there, deciding which species to manage for.

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Aldo Leopold said:

Only those who know the most about it can appreciate how little we know about it. The last word in ignorance is the man who says of an animal or plant: "What good is it?" If the land mechanism as a whole is good, then every part is good, whether we understand it or not. If the biota, in the course of aeons, has built something we like but do not understand, then who but a fool would discard seemingly useless parts? To keep every cog and wheel is the first precaution of intelligent tinkering.
(emphasis added)

KILLING NATIVE PLANTS AND ANIMALS IS NOT GENUINE RESTORATION

The Draft Malibu Lagoon Restoration & Enhancement Plan states that one of the three categories of recommendations from the UCLA study was "restoration of existing wetlands habitat to enhance their ecological functioning."

Dredging much of Malibu Lagoon for a project that will not appreciably cleanse the pollutants from the lagoon and that will destroy existing, functioning habitat that has achieved an equilibrium over the past 20+ years is contrary to this stated goal. Many of the species living in Malibu Lagoon will be killed during heavy equipment dredging and removing of habitat.

The City of Los Angeles planned to dredge Grand Canal Lagoon in a similarly uninformed project. A lawsuit against the Coastal Commission for approval of that project stopped and prevented a great loss of life and habitat.

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**NEED TO DETERMINE WHICH SPECIES ARE BEING
MANAGED FOR**

It is imperative that, after the protocol species surveys are completed, a determination is made as to which species are the keystone species of Malibu Lagoon. i.e., which species are the priorities for management planning and what recovery goals have been determined? Of course, this can not be done without completed surveys of the species currently living year-round and visiting Malibu Lagoon during migration (an entire year of all seasons of surveying is important in order to capture this data.) Then a review of the historical literature and scientific analysis of all of these factors will assist in recommendations to stakeholders and ecologists who can make an informed decision as to what the needs of those species are.

There are also opportunities for re-introduction of some species which historically were at Malibu Lagoon, but have been since extirpated.

California Native Plant Society, Sierra Club and Wetlands Action Network are recipients, for example, of settlement funds and approval from the California Department of Fish & Game to re-establish at Malibu Lagoon, the once-thought to be extinct Ventura Marsh Milkvetch (*Astragalus pycnostachys lanosissimus*.) Whatever plan is selected needs to consider this species introduction and make certain that proper habitat for that species is not ruined in the proposed project implementation.

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**ECOLOGY & STAKEHOLDERS NEED TO DETERMINE
COURSE OF ACTION**

Genuine restoration of any coastal wetland ecosystem needs to be informed by the ecology of the system currently in place, as well as the historical conditions, taking into account major changes in the current regime.

Ecology needs to be the driving force, not engineering. Engineered solutions to waterways are an outgoing mode of discipline and certainly need to not be leading the charge in determining a course of action.

Then, once the ecology, both present and historical are studied, known and understood, the stakeholders, with a heavy dose of ecological processes guiding them, can help decide which species will be managed for and what, if any, restoration enhancements are needed above the current equilibrium of ecological processes that are currently in place at Malibu Lagoon after some 20+ years.

Perhaps the mis-guided efforts of those who chose the "final alternative" were mis-informed by the UCLA study that recommended the restoration goals, which were largely approved and conceived by stakeholders that were seriously lacking in biological and ecological data and historical knowledge of the Malibu Lagoon ecosystem when the study was undertaken. Wetlands Action Network was involved in this process, and, in fact, because these topics were not adequately addressed in the UCLA study, which primarily focused on water quality, it was our understanding that no

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major restoration efforts were to be undertaken or even proposed for the lagoon until adequate protocol surveys were completed.

When the very first and only real opportunity for meaningful citizen and stakeholder input occurred in spring of 2004, there was clear consensus that no major machine-driven restoration would be taking place. The groups who gathered at Malibu City Hall that day determined that the only major activity that would require heavy machinery would be to tear up the existing sidewalks surrounding the lawn and the parking lot and move the parking lot closer to the street (Pacific Coast Highway.)

Otherwise, the major restoration efforts requested by the stakeholders included changing management practices on the sandy beach so as to encourage Snowy Plover nesting and possible Least Tern nesting, and removing non-native plants so that the wetland vegetation would be more appropriate to a coastal lagoon. This change in approximately 35% of the lagoon ecosystem vegetation would encourage more life consistent with coastal lagoon ecology, discourage homeless humans from living within inappropriate bushes and also discourage animals such as feral cats and raccoons from proliferating and, thus, causing un-due damage to bird and egg populations.

The products now being revealed as work products of the Technical Advisory Committee led by the State contractor, Heal the Bay, and the other state contractor Moffatt & Nichols Engineering, have departed in a major way and are a far cry from those recommend-

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dations put forward by the citizens of Malibu and stakeholders of the Malibu Lagoon Task Force/Watershed Committee.

**WATER QUALITY (which admittedly won't be helped much) AT
THE EXPENSE OF HABITAT**

There is quite a bit of focus in the reports on nutrients, sediments and water quality sampling. By the same token, there is a huge lack of biological understanding in the compilation of the report, which led to the inadequate informing of the recommendations.

While a few biological surveys are now being proposed after our voices had to be raised to a significant level to even be heard, they are severely lacking, as well as being proposed AFTER a course of action has ostensibly been selected. Again, this is backwards and not solid scientific decision-making.

Lacking, for instance, is any mention whatsoever of one of the most abundant types of species in any coastal wetland ~ insects ~ a crucial cog in the wheel of the lagoon ecosystem and vital to the determination as to what sort of restoration effort is desired.

In fact, there are definitely rare species of insects present at Malibu Lagoon, some of which could be severely impacted by the proposed plans.

Genuine restoration of Malibu Lagoon would take these species into account.

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(There are several other categories of species curiously missing from the plan, as well. Insects are only one type.)

The importance of insects in a coastal wetland ecosystem is explained:

"Although these insects are an important ecological component, they are seldom considered in environmental impact reports even though insects are near the base of most food chains and interact with almost all life forms in natural land communities.

They are essential food sources for birds and other vertebrates. They control vegetation and population numbers of other animals, including rodents and injurious insect species; and most importantly, they pollinate flowering plants, thus insuring their reproduction.

However, insects receive little attention by urban planners and natural resource managers because of their small size, extreme difficulty in identifying most species and the incorrect assumption that they are biologically and ecologically insignificant."

~ Chris Nagano, Charles Hogue, Roy Snelling and Julian Donaghue;
"The Insects and Related Terrestrial Arthropods of Ballona" in Ralph Schreiber, Ed., *Biota of the Ballona Ecosystem*, 1981.

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**BETTER USE FOR PUBLIC MONEYS THAT WILL RESULT IN
BETTER OUTCOME**

In the "Final Alternatives Analysis, dated March, 2005," the Executive Summary includes the following statement:

"Solving the habitat and water quality problems at the lagoon is not entirely possible without major improvements to the quality and/or quantity of incoming surface water and groundwater."

This is a key statement that explains clearly why the focus for bond or other public moneys for restoration of Malibu Lagoon ought to be on obtaining more public land for restoration upstream from the Lagoon, specifically in the Civic Center/Cross Creek area, and pursuing other water quality enhancements that will improve both the quality and quantity of incoming surface water and groundwater.

On page 102 of the Final Alternatives Analysis the recommended alternative (alternative 1.5) construction cost estimate is \$3.5 to 5.2 million. We would much rather see the bulk of this money go to purchase of more public land immediately upstream from the lagoon. There is a \$25 million crucial parcel of land for sale by Mr. Jerry Perenchio, and if \$1 million were to go for species surveys, nonnative plant removal, some limited plantings of more appropriate plants and moving the parking lot and adjacent sidewalks to minimize the impervious surface of the lagoon area, some \$2.5 to 4.2 million would be available to go toward land purchase, which would add significantly to cleaning up pollutants in the lagoon.

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**PESTICIDES/HERBICIDES NEED TO BE ELIMINATED, NOT
MINIMIZED**

Recent studies showing the impacts of pesticides and herbicides on Salmon, frogs and other species inform us that we still do not understand what these poisons do to the life cycle upon which we humans depend.

The California Coastal Commission has begun to determine that pesticides and herbicides are not to be used at all in the coastal zone on restoration projects. This particular lagoon has been so impaired for so long that it is crucial to eliminate the use of these poisons in management practices there. It is entirely possible to remove all non-native weeds by hand, and it is preferable, as volunteers from the community begin to appreciate the lagoon more as they are encouraged to work on removal of this inappropriate vegetative growth.

In addition, conditions placed on a permit for a private golf course adjacent to Malibu Lagoon required that many pesticides and herbicides be eliminated from the management of that golf course turf. The owner of the golf course was reluctant to completely eliminate fungicides due to the ongoing use of poisons at Malibu Lagoon. This public property needs to be an example to others in the area and not use these poisons.

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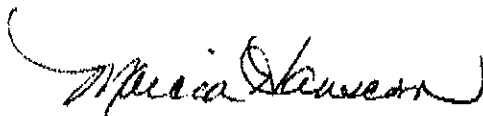
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ADDITIONAL COMMENTS ON PLANS

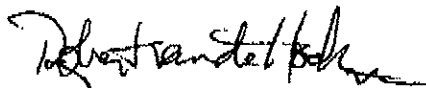
While there are numerous other comments that can and perhaps should be made in response to the recent reports on Malibu Lagoon proposed restoration plans, unless and until the above-detailed problems are fully and properly addressed, these comments would be akin to re-arranging the deck chairs on the Titanic.

The basic problems with the plans and premises for the proposed Malibu Lagoon "restoration" are great. Genuine restoration is what is called for. These plans will not accomplish that necessary goal.

With best regards,



Marcia Hanscom
Executive Director
Wetlands Action Network
Managing Director
Coastal Law Enforcement Action Network (CLEAN)



Robert Roy van de Hoek
Conservation Biologist

cc: California Senator Sheila Kuehl
California Assemblymember Fran Pavley
California Governor Arnold Schwarzenegger